

FILED

DEC 20 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

\*\*\*\*\*

UNITED STATES OF AMERICA,

CR 05-30047

Plaintiff,

-vs-

AMENDED  
OPINION AND ORDER

MARIAN JOAN PRINCE,

Defendant.

\*\*\*\*\*

Defendant filed a motion for suppression of evidence, Doc. 15. In connection with the motion to suppress, defendant subpoenaed records from the South Dakota Highway Patrol pertaining to the history and training of the drug dog utilized in this case. The government moved to quash the subpoena, Doc. 27. U.S. Magistrate Judge Moreno conducted evidentiary hearings on August 26, 2005, and September 20, 2005, and filed and served a report and recommendation for disposition of the motion to suppress, Doc. 34. Magistrate Moreno also entered an order to quash the subpoena, Doc. 30, and entered a letter decision, Doc. 32, indicating that the magistrate would review the drug dog records *in camera* only. The Court has conducted a *de novo* review of the transcript of the hearings, Docs. 35 and 36, the transcript of the findings made on the record by the magistrate, Doc. 37, and all the files and records herein. Defendant has filed objections, Doc. 40, to the recommendation of the magistrate. The government has also filed objections, Doc. 41, to the recommendation of the magistrate. The objections have been considered as well.

The defendant's objections should be overruled. The government's objections should be overruled. The Court agrees with the findings made by the magistrate and his recommendation.

Now, therefore, in light of the foregoing,

IT IS ORDERED:

**(1) That the motion for suppression of statements, Doc. 15, is granted insofar as it seeks to suppress the statements defendant made on the roadside after being handcuffed**

and questioned by highway patrol troopers and the statements that she subsequently made at the Jones County Sheriff's Office. The motion for suppression of the search of defendant's vehicle and the motion for suppression of any statements she made at the stop prior to being handcuffed are denied.

(2) That the defendant's objections to the magistrate's report and recommendation, Doc. 40, should be and are hereby overruled and that the recommendation and findings made by the magistrate, Docs. 34 and 37, should be and are hereby adopted.

(3) That the government's objections to the magistrate's report and recommendation, Doc. 41, should be and are hereby overruled and that the recommendation and findings made by the magistrate, Docs. 34 and 37, should be and are hereby adopted.

(4) That the defendant's motion for reconsideration, Doc. 31, is denied.

(5) That the defendant may examine the records from the South Dakota Highway Patrol pertaining to the history and training of the drug dog utilized in this case, provided that the defendant reimburses the South Dakota Highway Patrol for the costs of reproduction.

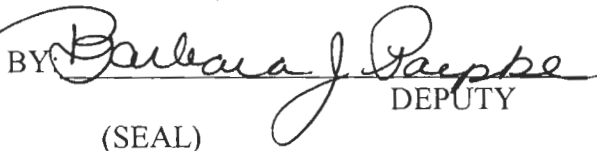
Dated this 20<sup>th</sup> day of December, 2005.

BY THE COURT:

  
CHARLES B. KORNMANN  
United States District Judge

ATTEST:  
JOSEPH HAAS, CLERK

BY:

  
DEPUTY  
(SEAL)